

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:22-cv-00438

Judy D. Brown,
Plaintiff,

v.
Alixa-RX et al.,
Defendants.

O R D E R

Plaintiff Judy Brown, proceeding pro se, filed the above-styled action asserting claims for violations of the False Claims Act (“FCA”). The case was referred to United States Magistrate Judge John D. Love. On July 19, 2023, the United States filed a notice of declined intervention. Doc. 17. On September 21, 2023, the court dismissed plaintiff’s FCA claims brought pursuant to 31 U.S.C. § 3729(a)(1) and §3730(b)(1), as well as plaintiff’s claim for health care fraud brought pursuant to 18 U.S.C. § 1347 without prejudice. As a result, the sole remaining claim in this action was plaintiff’s retaliation claim brought pursuant to 31 U.S.C. § 3730(h). Defendants thereafter brought a motion to dismiss plaintiff’s § 3730(h) claim pursuant to Federal Rule of Civil Procedure 12(b)(6). Doc. 27. On October 19, 2023, the magistrate judge issued a report and recommendation recommending that defendants’ motion be granted, and that plaintiff’s sole remaining claim be dismissed with prejudice. Doc. 31. Plaintiff filed objections to the report and recommendation. Doc. 32. Plaintiff also filed an additional, untimely second response to defendants’ motion. Doc. 33.

The court reviews the objected-to portions of a report and recommendation de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc). The court reviews all unobjectionated portions of the report and recommendation for

clear error or abuse of discretion. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"), *cert. denied*, 492 U.S. 918 (1989).

Plaintiff's objections reiterate her position that she has not brought claims pursuant to the False Claims Act. Doc. 32. Yet, plaintiff continues to assert these statutory bases in support of her claims. Furthermore, plaintiff's objections do not address the deficiencies of her § 3730(h) claim discussed by the magistrate judge in his report and recommendation. Even considering plaintiff's supplemental, untimely response (Doc. 33), plaintiff fails to address the factual and legal deficiencies of her § 3730(h) claim.

Accordingly, plaintiff's objections are without merit. The report and recommendation of the magistrate judge (Doc. 31) is accepted. Defendants' motion to dismiss (Doc. 27) is granted. Plaintiff's claim pursuant to 31 U.S.C. § 3730(h) is dismissed with prejudice. As this was the sole remaining claim in this action, a final judgment will be issued forthwith.

So ordered by the court on November 17, 2023.



J. CAMPBELL BARKER
United States District Judge